



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 16, 2004

Ms. Patty Rodgers  
General Manager  
Chisholm Trail Special Utility District  
P.O. Box 249  
Florence, Texas 76527

OR2004-5916

Dear Ms. Rodgers:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 205413.

The Chisholm Trail Special Utility District (the "district") received a request for the water consumption by month for each board member for the last year. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information another statute makes confidential. You assert that the requested information is confidential under section 182.052 of the Utility Code. Section 182.052 provides, in relevant part:

(a) Except as provided by Section 182.054, a government-operated utility may not disclose personal information in a customer's account record, or any information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage, if the customer requests that the government-operated utility keep the information confidential. However, a government-operated utility may disclose information related to the customer's volume or units of utility usage or amounts billed to or collected from the individual for utility usage if the primary source of water for such utility was a sole-source designated aquifer.

“Personal information” under section 182.052(a) means an individual’s address, telephone number, or social security number. Util. Code § 182.051(4). We note that the names of customers are not included in the definition of personal information, and therefore are not confidential under section 182.052 of the Utilities Code. Water service is included in the scope of utility services covered by section 182.052. Util. Code § 182.051(3).

The submitted information consists of seven customers’ names and volume or units of water consumption. You assert that all seven customers in question state their desire and intention that their consumption history remain confidential. However, you provided copies of five written requests for confidentiality of addresses and telephone numbers only. While we are unable to determine whether these five customers requested confidentiality prior to the date the district received the request for information, the submitted information does not contain addresses and telephone numbers; as such, the confidentiality of addresses and telephone numbers in this instance is not at issue. You have not provided this office with evidence of timely written requests that usage information be kept confidential for any of the seven customers at issue. We are also unable to determine whether the primary source of water for the district is a sole-source designated aquifer. If the primary source of water for the district is not a sole-source designated aquifer, and if the customers at issue requested in writing that usage information be kept confidential prior to the date on which the district received the request for information, the usage information is confidential and must be withheld under section 182.052 of the Utilities Code and must be withheld under section 552.101 of the Government Code. *See* Util. Code § 182.052(b) (request for confidentiality under this section must be in writing); Open Records Decision No. 625 at 7 (utility billing information must be released unless customer requests confidentiality before utility receives request for information). If, however, the primary source of water is a sole-source aquifer, and the customers timely requested in writing that usage information be kept confidential, the district has the discretion to release usage information, notwithstanding the customers’ requests for confidentiality. Finally, in either circumstance, if the customers at issue did not timely elect in writing to keep usage information confidential, then the district must release usage information to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the

governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

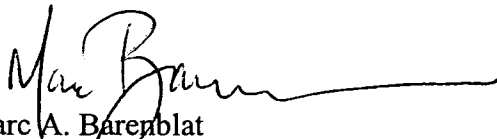
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Barenblat", with a long horizontal flourish extending to the right.

Marc A. Barenblat  
Assistant Attorney General  
Open Records Division

MAB/sdk

Ref: ID# 205413

Enc. Submitted documents

c: Mr. Russ Purcell  
212 Valley View  
Georgetown, Texas 78628  
(w/o enclosures)